



## New Motor Vehicle Board

# In-Site

April 2003

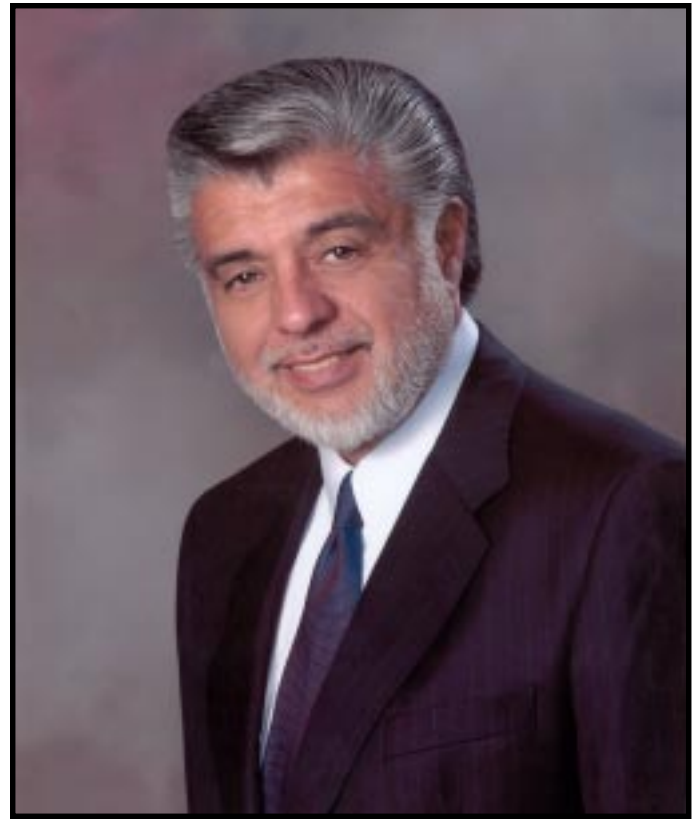
A Publication of the California New Motor Vehicle Board

03.2 Edition

## NEW MOTOR VEHICLE BOARD'S NEWEST PUBLIC MEMBER RECOGNIZED BY STATE ASSEMBLY

The New Motor Vehicle Board welcomes its newest Public member, David C. Lizárraga, who has served on the Board since January 2003. Mr. Lizárraga is internationally recognized as one of the country's top Hispanic leaders. He is sought after as a resource for his guidance on issues involving the Hispanic community, business and civic affairs, inner-city lending and real estate development. For the past 28 years, he has overseen the growth and expansion of The East Los Angeles Community Union (TELACU).

A non-profit community development corporation founded in 1968, TELACU is self-sustained



Public Member David C. Lizárraga by TELACU Industries, a for-profit family of companies which provides the economic means to fulfill TELACU's mission. Through its businesses, services and partnerships, TELACU creates dynamic opportunities to rebuild and enhance the communities it serves.

TELACU's mission of providing greater opportunities continues to be realized through the creation of new jobs, responsive financial institutions, expanding businesses, quality affordable housing, and educational opportunities for young people and veterans.

David Lizárraga's leadership has taken TELACU from a small community development corporation to the largest, most successful community development corporation in the nation. TELACU has been a catalyst in creating and retaining jobs in Southern California communities. Under his leadership, TELACU

Continued on page 2



Assembly Majority Floor Leader Marco Firebaugh, NMVB Executive Director Tom Novi, NMVB Public Member David Lizárraga, Assembly Speaker Herb Wesson, NMVB Staff Counsel Cara O'Neill-Stewart



continued from page 1

has become one of the nation's most prominent Hispanic organizations with more than \$400 million in assets. Appointed to the Board by Speaker of the California State Assembly Herb J. Wesson, Jr., Mr. Lizárraga's current term will expire January 15, 2007.

DMV Assistant Director of Legislation Bill Cather at Mr. Lizárraga's swearing in ceremony

## PAST BOARD PRESIDENT HITCHCOCK HONORED AT MARCH BOARD MEETING

At its March 11, 2003, General Board meeting, the members of the Board unanimously approved a motion to present a Resolution to Frederick E. ("Fritz") Hitchcock for his dedicated service as a former New Motor Vehicle Board Dealer member, Vice President, President, and now President Emeritus. Mr. Hitchcock graciously accepted the Resolution and extended his gratitude to the members and staff of the New Motor Vehicle Board by expressing his appreciation and emphasizing that it was his privilege to serve the Board.



## DMV DIRECTOR SPEAKS TO NATIONAL ASSOCIATION OF MOTOR VEHICLE BOARDS AND COMMISSIONS

At the invitation of New Motor Vehicle Board Executive Director Tom Novi, Department of Motor Vehicles (DMV) Director Steven Gourley gave a key presentation at the Annual Winter Workshop of the National Association of Motor Vehicle Boards and Commissions. The Workshop was held in conjunction with the National Automobile Dealers Association 2003 San Francisco Convention and Exposition.

Director Gourley addressed "Emerging Issues Relating to Licensing and Regulation of Dealers" by talking about issues involving DMV and dealerships in California. After several other speakers, a roundtable discussion addressed licensing and regulating issues in various states followed.

### IN-SITE



*State of California*  
Gray Davis, Governor

California New Motor Vehicle Board  
1507 21st Street, Suite 330  
Sacramento, California 95814  
(916) 445-2080  
e-mail: [nmvp@pacbell.net](mailto:nmvp@pacbell.net)

*Department of Motor Vehicles*  
Steven Gourley, Director



*Business, Transportation  
and Housing Agency*  
Maria Contreras-Sweet, Secretary

### *New Motor Vehicle Board*

#### **Officers**

Glenn E. Stevens,  
President  
David W. Wilson,  
Vice-President

#### **Members**

Robert Branzuela  
Robert T. (Tom) Flesh  
David C. Lizárraga  
Angelo Quaranta  
Alan J. Skobin

#### **Executive Director**

Tom Novi

#### **General Counsel**

Howard Weinberg

#### **Senior Staff Counsel**

Robin P. Parker

**Questions or comments:** Editor, [nmvp@pacbell.net](mailto:nmvp@pacbell.net)

## NMVB ATTENDS CALIFORNIA MOTORCYCLE DEALERS ASSOCIATION ANNUAL LEGISLATIVE RECEPTION

On Monday, March 24, 2003, the New Motor Vehicle Board staff attended the Annual Legislative Reception hosted by the California



Chuck Downing of A&S BMW Motorcycles, Roseville (right)

Motorcycle Dealers Association (CMDA) staff and Board of Directors at the Sheraton Grand Sacramento Hotel. The event provided a casual forum in which to discuss issues important to the motorcycle industry, such as the drastic increase in workers compensation insurance. The interesting displays of new and antique motorcycles provided by CMDA members made this reception both memorable and enjoyable.



From left to right:

James E. Lombardo, Sr., CMDA, Tom Weibel, DMV, Bill Cather, DMV, John Paliwoda, CMDA, and Assemblyman John Longville (seated on 1937 Harley from CHP Museum)



CMDA Lobbyist James Lombardo, Assemblyman Bill Maze, CMDA Executive Director John Paliwoda

*We appreciate the New Motor Vehicle Board's attendance at the California Motorcycle Dealers Association's (CMDA) Annual Legislative Reception. This allowed the staff to meet with various motorcycle dealers and legislators as well as the CMDA Board of Directors. This provided an excellent opportunity for the Board to better understand a number of issues faced by dealers and manufacturers.*

*I would like to emphasize that motorcycle dealers are very appreciative of the opportunity to be able to use the dispute-resolving resources of the New Motor Vehicle Board to settle often thorny and potentially expensive disagreements with manufacturers over franchise issues.*

*With franchisors and franchisees, there will always be differences, and both parties will attempt to exercise their strengths to the limit of existing laws and regulations. Relations between motorcycle and ATV dealers and their manufacturers are much better than years ago. Differences of opinion do develop, however, and that's why CMDA Members prefer the Board's dispute resolution procedures over costly litigation. As long as franchise partners exist and disputes develop, the New Motor Vehicle Board will be a valuable and effective state asset, one that most other states can only dream of emulating.*

*John Paliwoda,  
Executive Director of the  
California Motorcycle Dealers Association (CMDA)*



## BOARD MEETING RECAP

January 8, 2003

A resolution was presented to James Ryan, retired Senior Vice President and General Manager, Automotive Operations, Western Region, BMW North America, LLC.

A plaque was presented to Frederick E. "Fritz" Hitchcock, now President Emeritus, for his service as President.

### **The Board took the following actions:**

A proposal to use Staff Counsel for Mandatory Settlement Conferences as needed, and to rotate Administrative Law Judges when substitutions are needed for merits hearings was adopted.

A revision to the Parliamentary Procedures to reflect the current organizational structure of the Board staff was adopted.

Adopted proposed nonsubstantive text changes to previously approved regulations regarding the acceptance of credit cards for filing fees.

Adopted revisions to the Informational Guide for Manufacturers and Distributors.

Unanimously approved motions nominating Glenn Stevens for Board President and David Wilson for Board Vice President for 2003.

Following his election as Board President, Mr. Stevens appointed a number of committee members – please refer to page 8 for a complete list of appointments.

## BOARD MEETING RECAP

March 11, 2003

The Board performed its annual review of the Board's Mission and Vision Statements and asked staff to suggest amendments to the Vision Statement at the April meeting.

The Board was briefed on changes to the Administrative Procedure Act, Bagley-Keene Open Meeting Act, Political Reform Act, and Public Records Act as part of the annual education program.

The Board's financial condition for the 2<sup>nd</sup> quarter of fiscal year 2002-2003 was received.

Expenditure control efforts consistent with the State's fiscal crisis were discussed.

Guidelines for Access to Public Records were reviewed.

Nonsubstantive changes to text of Sections 551.15 and 551.17 of Title 13 of the California Code of Regulations (informal mediation) were reviewed.

Legislation of interest to the Board, including Senate Bill 248, Senate Bill 298, and Assembly Bill 213, were discussed.

### **The Board took the following actions:**

David Lizárraga was appointed to the Policy and Procedure Committee.

Revisions to New Motor Vehicle Board Dispute Resolution Guide for Administrative Law Judges and Others were approved.



## RECENT BOARD DECISIONS AND RULINGS

**The Board considered the following Proposed Rulings and Orders in the following cases at the January 8, 2003, Board Meeting:**

Fresno Dodge, Inc., dba Fresno Dodge v. DaimlerChrysler Motors Corporation

Protest No. PR-1763-01 (matter continued)

RDO Truck Riverside Co. dba RDO Truck Center v. Autocar, LLC

Protest No. PR-1830-02 (matter stayed 6 months)

Ray Fladeboe Lincoln Mercury, Inc. v. American Isuzu Motors, Inc.

Protest No. PR-1830-02 (OL-124 request denied)

**The Board considered the following Proposed Rulings and Orders in the following cases at the March 11, 2003, Board Meeting:**

Pioneer Centres of San Diego, Inc. v. Land Rover North America, Inc.

Protest No. PR-1827-02 (Adopted ALJ's Proposed Ruling)

Pioneer Centres of San Diego, Inc. v. Land Rover North America, Inc.

Petition No. P-448-02 (Adopted ALJ's Proposed Ruling for all but third cause of action)

## PENDING COURT CASES



Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, dba David J. Phillips Mazda, Real Party in Interest

Third District Court of Appeal, December 7, 2001

**The legal issue is whether the Board has the statutory authority under Vehicle Code section 3050(c) to adjudicate petition disputes when both parties are licensees, i.e., new motor vehicle dealers, manufacturers, and distributors.**

Briefing was completed when the Board's Response Brief was filed on October 29, 2002. As oral argument has not been requested to date by either the court or the parties, the Board is currently awaiting a decision from the court.

FORD MOTOR CO. v. NEW MOTOR VEHICLE BOARD, Respondent; UNIVERSITY FORD dba BOB BAKER FORD, Real Party in Interest  
Sacramento County Superior Court, March 19, 2003

**The legal issue is identical to that presented in the above Mazda case before the Third District Court of Appeal, i.e., whether the Board has the statutory authority under Vehicle Code section 3050(c) to adjudicate petition disputes when both parties are licensees, i.e., new motor vehicle dealers, manufacturers, and distributors.**

On March 19, 2003, Ford filed an Application For Stay of the Petition (P-450-02) before the Board and an Application for Alternative Writs of Mandamus with the Sacramento Superior Court. The Application for Stay was denied. The parties are currently seeking concurrence for a hearing date on the Writ for late May or early June.

## HEARINGS

**May 5, 2003 - PR-1835-02, PR-1837-02, PR-1838-02**

Long Beach Honda v. American Honda Motor Company; LLL Sales Co LLC, dba Gardena Honda v. American Honda Motor Company; Scott Robinson Honda, Inc. v. American Honda Motor Company

**June 23, 2003 - PR-1791-02**

O'Gara Coach Company, LLC, dba Rolls-Royce of Beverly Hills v. Rolls Royce and Bentley Motorcars, Inc.

**August 18, 2003 - PR-1772-01**

Melrose Ford v. Ford Motor Company

**July 7, 2003 - PR-1820-02**

Roseville Mitsubishi v. Mitsubishi Motor Sales of America, Inc.

**October 14, 2003 - PR-1839-03**

Steve Taub, Inc., dba Taub Audi v. Audi of America, Inc.

Dates are subject to change and cases may settle prior to hearing

## CMCDA DEALER DAY 2003

The California Motor Car Dealers Association ("CMCDA") held its 2003 Dealer Day on Tuesday, March 11, 2003, and Wednesday, March 12, 2003, at the Hyatt Regency in Sacramento. The event focused on legislation affecting dealers, the dealer impact within each legislative district, and the economic role of dealers within their communities.

Tuesday began with registration, followed by lunch and a host of speakers, including State Controller Steve Westly and State Assembly member John Campbell. Following the afternoon speakers, dealers walked across the street to the State Capitol to meet with their legislators and discuss legislation of interest to the industry. Legislative appointments also took place at the State Capitol in the late afternoon.

As it does every year, the Board held a General Board Meeting on March 11, 2003, in conjunction with the CMCDA Dealer Day event. At the conclusion of the Board meeting, Board members Tom Flesh, Glenn Stevens, David Lizárraga, Alan Skobin, Robert Branzuela and David Wilson, attended the Dealer Day functions.

### ACTIVE NMVB CASES

<u>Vehicle Code Section</u>	<u>Active</u>
3060 Termination/Modification	11
3062 Establishment/Relocation	14
3064 Delivery and Preparation	0
3065 Warranty Reimbursement	1
3065.1 Franchisor Incentive	0
<b>TOTAL PROTESTS:</b>	<b>26</b>
3050(c) PETITIONS	6
3050(b) APPEALS	0
<b>TOTAL CASES:</b>	<b>32</b>

## SUZANNE TAKEHARA RECEIVES AWARD

Suzanne Takehara  
Executive Assistant  
Legal Program



The Board considered and unanimously approved at its March 11, 2003, meeting, the Board Development Committee's recommendation that Suzanne Takehara receive the Employee Recognition Award for a job well done.

Ms. Takehara is being recognized for her excellent job performance as an Executive Assistant in the Legal Program. She manages all the travel arrangements for Board members and staff, and acts as support for all legal clerical assignments. This year, she has also taken on the additional and challenging task of Chair for the California State Employees Campaign. She has been widely praised for her outstanding abilities to complete projects in a timely and accurate manner and is highly organized and efficient. She is often complimented for her conscientious and professional demeanor and her positive attitude makes working with her a pleasure. In summary, her outstanding performance has contributed greatly to the Board's operations. Congratulations, Suzanne!

### MEDIATION STATISTICS

Mediation Phone Calls Received	<b>3,034</b>
Mediation Request Forms Sent to Consumers	<b>1114</b>
Cases Filed	<b>326</b>

July 2002 through March 2003

You can reach Mediation Services Staff at  
**(916) 445-1888**



## MEDIATION SPOTLIGHT

Mediation Services  
Representative  
Param Pabla

On August 12, 2002, the New Motor Vehicle Board Consumer Mediation Services Program received a mediation request from a consumer regarding his 2001 Subaru Legacy Outback. Mediation Services Representative, Param Pabla, was assigned to the case.

Mr. Pabla directed a letter of inquiry to Subaru of America, Inc., asking for a response to the consumer's vehicle concerns regarding vehicle pulsation and squeaky brakes upon application of the brakes at freeway speeds.

On September 3, 2002, Subaru declined the consumer's request for a repurchase of the car because the braking problems had been fixed. In the alternative, Subaru offered the consumer a six (6) year or 100,000 mile Subaru Added Security Gold Plus policy (policy) as a "goodwill gesture." Mr. Pabla forwarded Subaru's offer to the consumer on September 4, 2002.

On September 27, 2002, the Board received a letter from the consumer stating he would accept Subaru's policy offer. On October 2, 2002, Mr. Pabla forwarded the consumer's acceptance letter to Subaru and asked Subaru to send the policy information to the consumer as soon as possible. On November 11, 2002, Mr. Pabla closed the case.

On December 16, 2002, Mr. Pabla received a letter from the consumer stating that he had not yet received the policy information, and in response, Mr. Pabla forwarded the consumer's letter to Subaru, again asking Subaru to forward the policy information to the consumer.

On January 3, 2003, Subaru informed the Board that the policy was sent to the consumer on November 10, 2002, but because the consumer had not received the information, they resent the information to the

consumer on January 2, 2003. Mr. Pabla forwarded Subaru's response to the consumer on January 8, 2003.

On January 14, 2003, Mr. Pabla received a letter from the consumer stating that he had received the policy as agreed and was satisfied. He thanked Mr. Pabla for all his help.



On October 30, 2002, the Mediation Services Program received a request for mediation from a couple concerned about the safety of their 1998 Toyota Avalon. The consumers complained of suspension problems when driving on washboard-type road surfaces, i.e., the vehicle would groan and crunch, the steering would pull to the left, and the car would "bottom out" when going over small road surface bumps. The consumer's were concerned that these problems might cause a loss of control of the vehicle.

Trying to remedy these problems, the consumers' took the Avalon to Family Toyota for service six times, however, the consumers' fears were not alleviated and they contacted the Mediation Services Program for assistance. The case was assigned to Mediation Services Representative Param Pabla.

Mr. Pabla sent an inquiry to Family Toyota and Toyota Motor Sales U.S.A. ("Toyota"), asking for a response to the consumer's concerns. Family Toyota responded to Mr. Pabla's inquiry and outlined their attempts to minimize the problems with the Avalon. They noted that they made repairs to the vehicles struts and tie rod ends and believed the vehicle was operating as designed.

In the interest of customer goodwill, Family Toyota offered the consumers a years worth of free oil changes and vehicle inspections to insure the vehicle is safe to drive. The consumers accepted Family Toyota's generous offer and thanked Mr. Pabla for his assistance.

## REVENUE

NEW MOTOR VEHICLE DEALER Annual Fee:	\$	289,856.00
NEW MOTOR VEHICLE BOARD Filing fees:		11,600.00
NEW MOTOR VEHICLE BOARD Manufacturer/Distributor Annual fee:		740,519.40
Document Requests:		1,828.85
Arbitration Cert. Program Reimbursement		2,584.81
<b>As of December 31, 2002</b>	<b>\$</b>	<b>1,046,389.06</b>

## UPCOMING BOARD MEETINGS

**Special Board Meeting**  
**April 23, 2003**  
**Indian Wells**

**General Board Meeting**  
**June 17, 2003**  
**Sacramento**

**General Board Meeting**  
**April 24, 2003**  
**Indian Wells**



Board Meeting dates are subject to change. A meeting agenda with time and location details is mailed 10 days prior to the meeting to all interested parties.

### **The Administration Committee**

Chair: Robert Branzuela  
 Member: Alan Skobin

### **The Board Development Committee**

Chair: Tom Flesh  
 Member: Vacant

### **The Executive Committee**

Chair: Glenn Stevens  
 Member: David Wilson

### **The Fiscal Committee**

Chair: Angelo Quaranta  
 Member: Vacant

### **The Government and Industry Affairs Committee**

Chair: Tom Flesh  
 Member: Vacant

### **The Policy and Procedure Committee**

Chair: Alan Skobin  
 Member: David Lizárraga

## NEW HEARING ROOM UPDATES

The hearing room remodel is now complete, and for the comfort and convenience of the litigants, it now sports separate counsel tables as well as a state of the art sound system. Litigants, court reporters, and audience members alike have applauded the improvements.



**Why not visit us  
 on the web at:**



[www.nmvb.ca.gov](http://www.nmvb.ca.gov)

**Or e-mail us at:**

[nmvb@pacbell.net](mailto:nmvb@pacbell.net)